



2026:PHHC:009922-DB



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-940-2026 (O&M)

The Hind Samachar Limited & another

... Petitioners

Versus

State of Punjab & others

... Respondents

Reserved on : 19th January, 2026

Pronounced on : 23rd January, 2026

Uploaded on : 23rd January, 2026

*Whether only operative part of the judgment is
pronounced or the full judgment is pronounced: full judgment.*

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. Chetan Mittal, Senior Advocate (Arguing Counsel)
Mr. Akshay Bhan, Senior Advocate (Arguing Counsel)
Mr. Gaurav Chopra, Senior Advocate (Arguing Counsel)
with Mr. Prateek Gupta, Ms. Shifali Goyal,
Mr. Himanshu Bindal, Mr. Pranshu Goyal
and Mr. Avichal Sharma, Advocates for the petitioners.

Mr. Maninderjit Singh Bedi, Advocate General Punjab
(Arguing Counsel) with
Ms. Kavita Joshi and Mr. Sangam Garg, Advocates
for the State of Punjab and PSPCL.

Mr. D.S. Patwalia, Senior Advocate (Arguing Counsel)
with Mr. A.S. Chadha, Advocate
for respondent-Punjab Pollution Control Board.

SHEEL NAGU, CHIEF JUSTICE

1. This petition invoking writ as well as supervisory jurisdiction of this Court under Article 226 read with Article 227 of the Constitution of India, prays for following relief:

(i) Quash the disconnection order dated 14.01.2026 (Annexure P-8) issued by respondent No.3.

- (ii) Quash notice dated 13.01.2026 (Annexure P-7) issued by respondent No.2 directing disconnection of electric supply to the premises of petitioner No.2.
- (iii) Directing respondent No.7 (Director of Information and Public Relations, State of Punjab) to issue advertisement in favour of petitioner No.1 as was being done prior to 02.11.2025.
- (iv) Consequential interim relief connected to the main relief.

2. Since one of the impugned orders (Annexure P-7) is passed by the Punjab Pollution Control Board (hereinafter referred to as, 'the Board'), this Court as well as respondents raised preliminary objections as to maintainability of this petition in view of un-availed alternative statutory remedy of approaching National Green Tribunal (NGT) under Section 33B of the Water (Prevention and Control of Pollution) Act, 1974 (for brevity, 'the Water Act').

2.1 The petitioners, during the pendency of this petition, filed CM-738-2026 accompanied by letter dated 13.01.2026 (Annexure P-9) mentioning the grounds on which the emergent powers under Section 32 were invoked under the Water Act read with Rule 34(6) of the Water (Prevention and Control of Pollution) Rules, 1975 (for brevity, 'the Water Rules), further read with Rule 32(6) of the Punjab Water (Prevention and Control of Pollution) Rules, 1977 (for short, 'the Punjab Water Rules').

3. In view of the objections, this Court deems it appropriate to deal with the preliminary objections first, in the following terms.

3.1 Learned counsel for respondents raised preliminary objections to the following effect:

- (i) The powers exercised vide the impugned orders (Annexure P-7 & P-8) are vested with the Board under Section 32 read with Section 33A of the Water Act.
- (ii) Since the aforesaid power has been exercised within the four corners of law by invoking the emergent power under Rule 32(6) of the Punjab Water Rules read with Rule 34(6) of the Water Rules, the appropriate remedy before the petitioners is to approach the NGT under Section 33B of the Water Act.
- (iii) The petitioner has not assailed the order (Annexure P-9) dated 13.01.2026 of the Board assigning reasons for invoking the emergent powers.

4. On the other hand, learned counsel for petitioners, in support of the maintainability of this petition, raised following grounds:

- (i) The petitioners have been denied reasonable opportunity of being heard as no show-cause notice was given and the objections to the same were not considered before taking impugned action of closure and disconnection.
- (ii) Order (Annexure P-7) which is purported to have been passed under Section 33A of the Water Act, is a non-speaking order.
- (iii) The reasons for closure and disconnection were supplied after the impugned action was taken.
- (iv) Had the petitioners been granted opportunity of being heard, the deficiency as pointed out would have been removed.

- (v) It is, thus, contended that the remedy of judicial review is always open to be invoked by the petitioners in the given facts and circumstances.
- (vi) The judgment of Apex Court in '**Tamil Nadu Pollution Control Board v. Sterlite Industries (India) Ltd. & others (2019) 19 SCC 479**' has been relied upon.
- (vii) Division Bench decision of Allahabad High Court in '**WRIT-C No.10259 of 2019 passed on 31.05.2019 in 'HMA Agro Industries Ltd. vs. State of U.P. and 2 others'**' is relied upon.

5. Pertinently, the nature of pollution involved in the present case is the effluent discharged by the petitioner-hotel situated in Project Park Plaza, Civil Lines, Jalandhar, which has 72 rooms, one banquet hall, two restaurants and a swimming pool. The reasons assigned by the Board, on inspection carried out on 13.01.2026 are to the following effect:

- “(1) The hotel has not obtained authorization under the provisions of Hazardous Waste Management Rules, 2016.*
- (2) As informed by the representative of the hotel, the hotel is having @70 rooms, @ one Banquet Hall of capacity 200-250 persons, @ 02 restaurants of capacity 70 persons each and one bar room of capacity 55 persons. During the visit, the occupancy was reported 30% by the representative of the hotel.*
- (3) The hotel has installed STP of capacity 70 KLD based on Biological Treatment which was not in operation during visit and untreated waste water was being bye-passed into MC sewer. The hotel has made permanent provision of bye-pass with the STP. The hotel has installed flow meter at outlet of STP but the same was not in operation. Further, no record w.r.t. the operation of STP has been produced/maintained by the project proponent. Effluent samples were collected from bye-pass*

arrangement leading to MC sewer and sent to Head office lab for analysis of various parameters.

(4) *The hotel is using chemicals such as Disodium Trivsilicate, fabric wash detergent Fabric softner and CLAX 200 color safe solution in laundry section.*

(5) *The hotel has also provided one ETP of capacity KLD for the treatment of trade effluent generated from laundry section having components Collection tank, Chemical, dosing, Aeration, Tube settler, Filters. During visit all components of the ETP were not in operation and untreated effluent was being bye-passed into MC sewer. The hotel has neither installed any flow meter at outlet of ETP nor produced any record w.r.t the operation of ETP Effluent samples were collected from bye-pass arrangement leading to MC sewer and sent to Head office lab for analysis of various parameters.*

(6) *The hotel has not submitted any approval obtained from the Municipal Corporation, Jalandhar regarding the disposal of its waste water into sewer network of MC.*

(7) *Hotel has also provided rain water harvesting pit inside the premises but no demarcation was provided on rain water harvesting pit.*

(8) *The hotel has provided one borewell for the abstraction of ground water with water meter installed on it. During visit reading of water meter was recorded as 015066m³ The representative failed to provide record of fresh water abstraction and consumption Further representative could not produce certificate regarding fresh water abstraction from borewell from the PWRDA.*

(9) *The hotel has installed suction hoods in the kitchen with ducting and suction system. But the stack height provided with the ducting was not adequate. The hotel is using LPG and coal for tandoors/ Burners in the Kitchen.*

(10) *The hotel has not installed any boiler inside the premises but it has installed electric hot water mixing tank of capacity 2KLD.*

(11) *The hotel has installed 02 DG sets of capacity 380 KVA each with separate canopies and inadequate stack height.*

(12) *The hotel is generating hazardous waste i.e. spent oil during the servicing of DG sets as well as ETP sludge. But it has neither provided separate hazardous waste storage room with lock and key arrangement nor maintained any record w.r.t generation, storage and disposal of hazardous waste. During visit used oil was found stored in basement area however no ETP sludge was found stored inside the premises.*

(13) *The hotel is storing solid waste at the back side of the hotel with no proper segregation. The Hotel has also provided mechanical composter for the in house management of wet waste being generated from the premises but the same was not in operation and the physical condition of the composter was showing that it is not being operated. The representative informed that they used to lift solid waste to the MC persons/vendor.*

(14) *The hotel has not produced approved building plan of the hotel so as to adjudge the coverage area of the hotel under the provisions of the EIA notification, 2006.*

(15) *The hotel has not got the permission of operation of ETP mentioned in the consent to operate granted under Water Act, 1974 as such it requires to obtain varied consent to operate under Water Act, 1974.”*

5.1 Thus, looking to the nature of effluents the same is primarily water based and therefore, the cause herein relates exclusively to the Water Act.

5.2 The Water Act was promulgated to prevent and control water pollution by laying down establishment of different institutions and by

conferring powers on them, and matters relating thereto and connected therewith. Section 33 of the Water Act empowers the State Board to take emergent measures where the discharge of effluent is poisonous, noxious and polluted and has entered into any stream, well or land, and if the Board is of the opinion that it is necessary or expedient to take immediate action, it may for reasons to be recorded in writing, carry out such operations as it may consider necessary, including removing the effluents from the stream, well or land and disposing it of, remedying or mitigating any pollution caused by its possession in the stream or well and issuing orders restraining or prohibiting the person concerned from causing obstruction in the stream, well or land.

5.3 After the Water Act was promulgated, some difficulties were experienced in its execution which lead to subsequent amendments including insertion of Section 33A, which for ready reference and convenience is reproduced below:

“33A. Power to give directions.—*Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.*

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) the stoppage or regulation of supply of electricity, water or any other service.”*

5.4 The aforesaid Section 33A starts with a non-obstante clause, empowers the State or Central Board to issue directions in writing to any person, officer or authority and if so done, then the said officer or authority shall be bound to comply with such directions. Explanation under Section 33A of the Water Act removes all doubts by further clarifying that the power to issue directions includes the power to direct for closure, prohibition or regulation of any industry, operation or process, or the stoppage or regulation of supply of electricity, water or any other service.

6. To elaborate the procedure, the State Governments under Section 64 of the Water Act are empowered to make rules to carry out the object behind the Water Act. As such, the State of Punjab framed the Punjab Water (Prevention and Control of Pollution) Rules, 1977. The relevant rule concerning the issue involved herein is Rule 32, which is reproduced herein below for ready reference and convenience.

“Rule - 32. Directions. –

- (1) *Any direction issued section 33-A shall be in writing.*
- (2) *The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or authority, to whom such direction is given.*
- (3) *The person, officer or authority to whom any direction is sought to be issued, shall be served with a copy of the direction and shall be given an opportunity of not less than fifteen days from the date of service of such notice, to file, with an Officer designated in this behalf, the objection, if any, to the issue of such direction.*
- (4) *Where the directions for the stoppage or regulation of electricity or water or any other service, affecting the*

carrying on of any industry, operation or process and is sought to be issued to an officer or an authority, as the case may be, a copy of the direction shall also be endorsed to the occupier, and objections, if any, filed by the occupier with an officer designated in this behalf, shall be dealt with in accordance with the procedure given under sub-rule (3), and sub-rule (5) of this rule:

Provided that no opportunity of being heard, shall be given to the occupier, if he had already been heard with regard to the stoppage or regulation of electricity or water or any other service referred to above.

- (5) *The Board shall within a period of forty five days from the date of receipt of the objections, if any, or from the date Up to which an opportunity is given to the person, officer or authority to file objections, whichever is earlier, after considering the objections, if any, accordingly decide to confirm or modify or not to issue the direction so given after giving reasons in writing.*
- (6) *Where the Board is of the opinion that in view of the likelihood of a grave injury to the environment it is not expedient to provide an opportunity to file objections against the direction, it may for reasons to be recorded in writing, issue direction without providing such opportunity.*
- (7) *A direction or notice thereof, as the case may be, required to be issued under this rule shall be deemed to be duly served :-*
 - (a) *Where the person to be served, is a company, if such direction or notice thereof, as the case may be, is addressed in the name of the company at its principal office or at its registered office or at the place of*

business as the case may be and is delivered in person or is sent by registered post;

(b) Where the person to be served is a serving Government Officer, if such direction or notice thereof, as the case may be, is addressed to that person, and a copy thereof is endorsed to the Head of Department or to the Secretary to Government, as the case may be, being in charge of the Department, in which for the time being the business relating to the Department is transacted in which said officer is employed, is delivered in person or is sent by registered post; and

(c) In any other case, if the direction or notice thereof, as the case may be, is addressed to the person to be served; and

(i) is delivered in person to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or delivered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it related; or

(iii) is sent by registered post to that person.

Explanation. - For the purpose of this sub-rule :-

(a) 'Company' means any body corporate and includes a firm or other association of individuals;

(b) 'a Servant' is not a member of the family."

6.1 From a bare perusal of the emergent powers under Section 32 read with Section 33A of the Water Act, and Rule 32(6) of the Punjab Water Rules, it is obvious that in an emergent situation to prevent further damage from being caused by effluents, the Board is empowered without affording

prior hearing to close down the operation of any institution and disconnect electric supply, provided reasons are recorded, while taking emergent action in writing by the Board.

6.2 The Board constituted a team of officers who inspected the premises of the petitioner-hotel on 13.01.2026 and found the deficiencies in the requirement of compliance under the Water Act and Rules framed thereunder, which have already been mentioned above. Thereafter, the Board applied its mind over the said deficiencies pointed out by the team of officers and found that emergent situation exists to invoke the emergent powers under Sections 32 & 33A of the Water Act, and thus, directed closure of the petitioner-hotel and disconnection of electric supply, without first issuing show-cause notice.

7. At this juncture, learned counsel for petitioners has raised an objection that had the petitioners been afforded opportunity, the petitioners could have removed the deficiency. This argument is heard to be rejected on the ground that if opportunity was given in an emergent situation, then the very purpose of vesting the Board with emergent powers would stand defeated.

8. In the considered opinion of this Court, the letter dated 13.01.2026, which is at page 9 of CM-738-2026, contains sufficient reasons to enable the Board to invoke its emergent power under Section 32 read with Section 33A of the Water Act and dispense with the requirement of prior issuance of show-cause notice.

8.1 Another argument raised by learned counsel for petitioners that unless reasons are supplied by the Board to the petitioners, no closure or disruption in electric supply can take place, further does not appeal to this Court. The Statute, neither the Water Act nor the Punjab Water Rules oblige the Board to supply reasons so assigned for taking emergent action. The

only statutory requirement is that the reasons should be recorded in writing, and therefore, should contain in the noting of the file concerned from the Board to be produced as and when challenge is made in a Court of law.

8.2 The further argument that the reasons were supplied later, also does not hold any water in view of enabling provision which empowers the Board to record reasons and not to supply or communicate the reasons prior to the exercise of emergent powers of closure and disruption of electric supply.

9. As regards the order of Division Bench of Allahabad High Court in **HMA Agro Industries Ltd.'s case (ibid)** is concerned, a careful reading of the said judgment, especially paragraph No.24 reveals that the action impugned before the Allahabad High Court was the action of the State Board including emergent powers without recording any detailed reasons and therefore, the Allahabad High Court rightly interfered.

9.1 On the contrary, in the present case, sufficient reasons are contained in the letter dated 13.01.2026, which support the invocation of emergent powers.

10. The next contention of learned counsel for petitioners by citing the case of Apex Court in the case of '**Tamil Nadu Pollution Control Board v. Sterlite Industries (India) Ltd.**' (*supra*), where the interference under Article 226 of the Constitution of India was held to be tenable when the action of the Board taken jointly under the Air (Prevention and Control of Pollution) Act, 1981 (for short, 'the Air Act') as well as Water Act was under challenge. The said decision in the case of '**Tamil Nadu Pollution Control Board v. Sterlite Industries (India) Ltd.**' (*supra*), is of no assistance to the petitioners since the present case exclusively falls within the four corners of the Water Act, with no application of Air Act.

11. Before the dictation of this order could be concluded, this Court was apprised of the order dated 20.01.2026 passed by the Apex Court in '**Jagat Vijay Printers LLP & another vs. State of Punjab & others**' **SLP(Civil) 3871/2026**. The operative part of which is to the following effect:

“5. Heard learned Senior Counsel for the petitioner as well as learned Advocate General and the Additional Advocate General for the respondent-State.

6. Without prejudice to the rights of both sides, and without expressing any opinion on the merits of the case, it is directed that the printing press re: publication of newspaper (Punjab Kesari) shall continue to function uninterruptedly. However, qua the other commercial establishments, including the hotel, the status quo, as it exists today, shall be maintained by the parties.

7. This interim arrangement is made till the pronouncement of the judgment by the High Court, and shall remain effective for one week thereafter, in order to enable the aggrieved party to approach the appropriate forum.

8. The Special Leave Petition stands disposed of accordingly.

9. As a result, the pending interlocutory application, if any, also stands disposed of.”

11.1 In view of the order of the Apex Court passed on 20.01.2026, status-quo as directed by the Apex Court in regard to the commercial establishments including hotel, is continued for a period of one week from the date of pronouncement of this order.

12. In view of the above discussion, this Court has no manner of doubt that the appropriate remedy before the petitioners is to approach the National Green Tribunal under Section 33B(c) of the Water Act.

12.1 This Court hastens to add before concluding that no order on merits has been passed and any assertion on merits is only meant for deciding the preliminary objections raised by the respondents.

12.2 Consequently, the preliminary objections raised by the respondents are upheld. The petition stands disposed of without commenting upon the merits, relegating the petitioners to avail alternative statutory remedy under Section 33B(c) of the Water Act.

**(SHEEL NAGU)
CHIEF JUSTICE**

**(SANJIV BERRY)
JUDGE**

January 23, 2026

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No